REMARKS

The Office Action in the above-identified application has been carefully considered and this amendment has been presented to place this application in condition for allowance. Accordingly, reexamination and reconsideration of this application are respectfully requested.

Claims 41–66 are in the present application. It is submitted that these claims, are patentably distinct over the prior art cited by the Examiner, and that these claims are in full compliance with the requirements of 35 U.S.C. § 112. No changes have been made to the claims.

Claims 41, 43, 48, 50, 53, 55, 57, 60, 62, and 64 were rejected under 35 U.S.C. § 102(e) as being anticipated by Bieganski et al. (U.S. Patent 6,412,012). However, the present invention is distinguishable over Bieganski for at least the following reasons. The present invention has "means for computing per each of the contents a weight related to a number of checkouts from the usage history data and the related data recorded in the recording means based on the filtering data." (Claim 48; Claims 41, 44, 53, 55, 60, and 62 contain similar limitations) The present invention generates a list of content (i.e. a filtering package) based on weights derived from both a user' history (i.e. usage history data) and a set of filter parameters (i.e. filtering data). (Figures 35 and 45) By contrast, as argued by the Examiner, Bieganski uses history data in determining the filter which in turn computes the weights for selecting data. (Office Action page 4) In other words, Bieganski uses history data to generate the filter which is then used to generate the weights. Hence, Bieganski does not use both filter data and history data to generate the weights as required in the present invention. Moreover, the present invention's history data includes the

"number of checkouts." A "checkout" refers to a process analogous to checking out a book from the library. The present invention imposes limits on the number of songs (or copies of a song) that can be checked out at a time. Once this limit is reached, no additional songs can be checked out until previously checked out songs are checked back in. Bieganski simply does not disclose a "checkout" as meant in the present invention. Accordingly, for at least these reasons, Bieganski fails to anticipate the present invention and the rejected claims should be allowed.

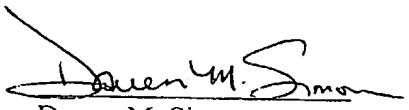
Claims 42, 44-47, 49, 51-52, 54, 56, 58-59, 61, 63, and 65-66 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Bieganski in view of Drosset (U.S. Patent 6,662,231). Drosset is relied on to meet the "checkout" limitations found in the rejected claims as discussed above in relation to Bieganski. Drosset discloses a "play-out time" which refers to a time duration that an audio file has been played. Drosset's play-out time is applicable to a music streaming system, and is not applicable or analogous to the present invention's "checkout" operation. Accordingly, Drosset, like Bieganski, fails to meet the present invention's "checkout" limitations. Hence, the combination of Bieganski and Drosset fails to obviate the present invention and the rejected claims should be allowed.

In view of the foregoing amendment and remarks, it is respectfully submitted that the application as now presented is in condition for allowance. Early and favorable reconsideration of the application are respectfully requested.

No additional fees are deemed to be required for the filing of this amendment, but if such are required, the Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 50-0320.

If any issues remain, or if the Examiner has any further suggestions, he/she is invited to call the undersigned at the telephone number provided below. The Examiner's consideration of this matter is gratefully acknowledged.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: 

Darren M. Simon
Reg. No. 47,946
(212) 588-0800